

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;

Plaintiff,

vs.

HAWAIIAN EXPRESS SERVICE,  
INC., et al.,

Defendants.

) CIVIL NO. CV03-00385 SOM-LEK  
) (Copyright)  
)

) **DECLARATION OF DAMIAN**  
) **CAPOZZOLA IN SUPPORT OF**  
) **DEFENDANT PCT'S RESPONSE**  
) **TO PLAINTIFF WAYNE BERRY'S**  
) **MOTION IN LIMINE TO EXCLUDE**  
) **EXPERT TESTIMONY OF**  
) **BRADLEY DECHTER**  
)  
)


) Judge: Hon. Susan O. Mollway  
) Trial Date: January 24, 2006  
)  
) Hearing Date: January 20, 2006  
) Hearing Time: 2:00 p.m.  
)

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I, DAMIAN D. CAPOZZOLA, declare that:

1. I am a partner at the law firm of KIRKLAND & ELLIS, LLP, attorneys for Defendant PCT and am duly authorized to make this affidavit.
2. I am licensed to practice law in the State of California and have been admitted pro hac vice in this case. I know the following to be true through my work in this case, and if requested could and would competently testify as such.
3. Exhibit A contains a true and correct copy of a letter from Lex Smith to Timothy Hogan dated April 20, 2005 containing expert disclosures.
4. Exhibit B contains a true and correct copy of a letter from Timothy Hogan to Eric Liebler dated April 22, 2005.
5. Exhibit C contains a true and correct copy of a report prepared by Bradley Dechter dated June 6, 2005.

So sworn under penalty of perjury under the laws of the United States of America in Los Angeles, California, on January 10, 2006.

  
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Damian D. Capozzola